

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

1 PEDRO AGUIAR-PEREZ,

2 Case No. 3:25-cv-00099-ART-CSD

3 v. Plaintiff,

4 ORDER

5 WASHOE COUNTY JAIL,

6 Defendants.

7 Plaintiff Pedro Aguiar-Perez brings this civil-rights action under 42 U.S.C.  
8 § 1983 to redress constitutional violations that he claims he suffered while  
9 incarcerated at Washoe County Detention Center. (ECF No. 4.) On April 2, 2025,  
10 this Court ordered Aguiar-Perez to file an amended complaint, within 90 days.  
11 (ECF No. 3.) The Court warned Aguiar-Perez that the action could be dismissed  
12 if he failed to file an amended complaint by that deadline. (*Id.* at 8.) That  
13 deadline expired, and Aguiar-Perez did not file an amended complaint, move for  
14 an extension, or otherwise respond.

15 **I. DISCUSSION**

16 District courts have the inherent power to control their dockets and “[i]n  
17 the exercise of that power, they may impose sanctions including, where  
18 appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los  
19 Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based  
20 on a party’s failure to obey a court order or comply with local rules. *See Carey v.  
21 King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to  
22 comply with local rule requiring *pro se* plaintiffs to keep court apprised of  
23 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)  
24 (dismissal for failure to comply with court order). In determining whether to  
25 dismiss an action on one of these grounds, the Court must consider: (1) the  
26 public’s interest in expeditious resolution of litigation; (2) the Court’s need to  
27

1 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
2 favoring disposition of cases on their merits; and (5) the availability of less drastic  
3 alternatives. *See In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217,  
4 1226 (9th Cir. 2006) (quoting *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th  
5 Cir. 1987)).

6 The first two factors, the public's interest in expeditiously resolving this  
7 litigation and the Court's interest in managing its docket, weigh in favor of  
8 dismissal of Aguiar-Perez's claims. The third factor, risk of prejudice to  
9 defendants, also weighs in favor of dismissal because a presumption of injury  
10 arises from the occurrence of unreasonable delay in filing a pleading ordered by  
11 the court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524  
12 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of cases  
13 on their merits—is greatly outweighed by the factors favoring dismissal.

14 The fifth factor requires the Court to consider whether less drastic  
15 alternatives can be used to correct the party's failure that brought about the  
16 Court's need to consider dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d 983,  
17 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before*  
18 the party has disobeyed a court order does not satisfy this factor); *accord*  
19 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that  
20 "the persuasive force of" earlier Ninth Circuit cases that "implicitly accepted  
21 pursuit of less drastic alternatives prior to disobedience of the court's order as  
22 satisfying this element[,] *i.e.*, like the "initial granting of leave to amend coupled  
23 with the warning of dismissal for failure to comply[,"] have been "eroded" by  
24 *Yourish*). Courts "need not exhaust every sanction short of dismissal before  
25 finally dismissing a case, but must explore possible and meaningful  
26 alternatives." *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986).  
27 Because this action cannot realistically proceed until and unless Aguiar-Perez  
28 files an amended complaint, the only alternative is to enter a second order setting

1 another deadline. But the reality of repeating an ignored order is that it often  
2 only delays the inevitable and squanders the Court's finite resources. The  
3 circumstances here do not indicate that this case will be an exception: there is  
4 no hint that Aguiar-Perez needs additional time or evidence that he did not  
5 receive the Court's screening order. Setting another deadline is not a meaningful  
6 alternative given these circumstances. So the fifth factor favors dismissal.

7 **II. CONCLUSION**

8 Having thoroughly considered these dismissal factors, the Court finds that  
9 they weigh in favor of dismissal. It is therefore ordered that this action is  
10 dismissed without prejudice based on Aguiar-Perez's failure to file an amended  
11 complaint in compliance with this Court's April 2, 2025, order. The Clerk of  
12 Court is directed to enter judgment accordingly and close this case. No other  
13 documents may be filed in this now-closed case. If Aguiar-Perez wishes to pursue  
14 his claims, he must file a complaint in a new case.

15 It is further ordered that Aguiar-Perez's application to proceed *in forma*  
16 *pauperis* (ECF No. 1) is denied as moot.

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18 DATED: July 23, 2025.

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22 ANNE R. TRAUM  
23 UNITED STATES DISTRICT JUDGE  
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